

DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 182

BOARD OF PRIVATE SECURITY PATROL OFFICERS
AND INVESTIGATORS

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Subchapter 1

Organizational Rule

24.182.101 ORGANIZATION (1) The board of private security patrol officers and investigators hereby adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 37-60-202, MCA; IMP, 2-4-201, MCA; NEW, Eff. 9/4/74; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 589, Eff. 4/13/84; TRANS, from Commerce, 2005 MAR p. 1926, Eff. 10/7/05.)

Subchapter 2

Procedural Rules

24.182.201 PROCEDURAL RULES (1) The board of private security patrol officers and investigators hereby adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-60-202, MCA; IMP, 2-4-201, MCA; NEW, Eff. 9/4/74; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 589, Eff. 4/13/84; TRANS, from Commerce, 2005 MAR p. 1926, Eff. 10/7/05.)

24.182.202 PUBLIC PARTICIPATION (1) The board of private security patrol officers and investigators hereby adopts and incorporates the public participation rules of the department of commerce as set out in chapter 2 of Title 8. (History: 37-60-202, MCA; IMP, 2-3-103, MCA; NEW, 1984 MAR p. 589, Eff. 4/13/84; TRANS, from Commerce, 2005 MAR p. 1926, Eff. 10/7/05.)

Subchapter 3

Definitions

24.182.301 DEFINITIONS As used in Title 37, chapter 60, MCA, and this chapter, the following definitions apply:

(1) "Direct supervision", regarding private investigator trainees, means daily contact between supervisor and trainee while engaged in an investigation, including one in-person, face-to-face meeting per week.

(2) "Dishonorable discharge" means any military discharge specifically stating it is a dishonorable discharge.

(3) "Retail merchant" means a person who operates a store and sells goods to individuals solely for their own use. (History: This rule is advisory only, but may be a correct interpretation of the law, 37-1-131, 37-60-202, MCA; IMP, 37-60-101, 37-60-103, 37-60-105, 37-60-202, 37-60-303, MCA; NEW, 1984 MAR p. 589, Eff. 4/13/84; AMD, 1986 MAR p. 946, Eff. 5/30/86; AMD, 1986 MAR p. 1697, Eff. 10/17/86; AMD, 1987 MAR p. 1779, Eff. 10/16/87; AMD, 1990 MAR p. 1772, Eff. 9/14/90; AMD, 1997 MAR p. 633, Eff. 4/8/97; TRANS, from Commerce, & AMD, 2005 MAR p. 1926, Eff. 10/7/05.)

Subchapter 4

General Provisions

24.182.401 FEE SCHEDULE (1) License application fees are as follows:

(a) Contract security companies, proprietary security organizations and electronic security companies:

(i) Company \$200

(ii) Resident manager or qualifying agent	100
(iii) Security guard, alarm installer or alarm response runner	25
(b) Private investigator	200
(c) Private investigator trainee	100
(d) Certified firearms instructor (biannual)	100
(e) Armed status	25
(2) License renewal fees are as follows:	
(a) Contract security companies, proprietary security organizations and electronic security companies:	
(i) Company	100
(ii) Resident manager or qualifying agent	75
(iii) Security guard, alarm installer or alarm response runner	45
(b) Private investigator	100
(c) Private investigator trainee	45
(d) Certified firearms instructor (biannual)	100
(e) Armed status	25
(f) Late renewal	50
(3) Miscellaneous fees are as follows:	
(a) Duplicate license or photo ID card (original lost or destroyed)	10
(b) FBI processing fee	24
(c) Department of justice processing fee	8
(d) Temporary practice permit	25
(e) License history/license verification	15
(f) Changes of employer, address or name	10
(g) List of licensees for continuing education purposes only	40
(h) Copies, per page	.35
(i) Certified copies, per page	.50
(j) Training program certification (application and renewal)	50
(4) Fees are deemed earned by the board upon receipt and all fees are nonrefundable. (History: 37-1-134, 37-60-202, MCA; <u>IMP</u> , 25-1-1104, 37-1-134, 37-60-304, 37-60-312, MCA; <u>NEW</u> , 2005 MAR p. 1926, Eff. 10/7/05.)	

Rule 24.182.402 reserved

24.182.403 IDENTIFICATION POCKET CARD (1) Only one identification card shall be issued for each licensure category. The licensee is responsible for the maintenance, custody and control of the card, and shall not permit any unauthorized use of the card. If an identification card is altered in any way, it is invalid.

(2) Identification cards are renewed pursuant to ARM 24.182.513.

(3) Each photograph submitted must fairly and accurately represent the appearance of the applicant. If the department determines that its file copy does not bear substantial resemblance to the applicant, the department may require a new photograph. (History: 37-60-202, MCA; IMP, 37-60-309, MCA;

NEW, 1984 MAR p. 589, Eff. 4/13/84; AMD, 1987 MAR p. 1779, Eff. 10/16/87; TRANS, from Commerce, & AMD, 2005 MAR p. 1926, Eff. 10/7/05.)

Rule 24.182.404 reserved

24.182.405 INSURANCE REQUIREMENTS (1) Persons regulated by Title 37, chapter 60, MCA, and licensed as follows shall file a yearly certificate of insurance with the board:

(a) Private investigators shall maintain a minimum of \$500,000 occurrence form of commercial general liability which includes personal injury.

(i) If licensed with armed status, private investigators shall be covered by liability for firearms coverage.

(b) Electronic security companies shall maintain a minimum of \$500,000 occurrence form of commercial general liability which includes personal injury and errors and omissions coverage.

(c) Contract and proprietary security companies shall maintain a minimum of \$500,000 occurrence form of commercial general liability which includes personal injury.

(i) If licensed with armed status, employees of contract and proprietary security companies shall carry liability for firearms coverage.

(2) Except as provided in this rule, all licensees must be insured by a carrier:

(a) licensed in the state in which the insurance was purchased and covered by that state's insolvency fund; or

(b) licensed in the state of Montana.

(3) Each licensee shall sign a release requesting the insurance carrier to inform the board if the coverage is canceled or allowed to lapse. (History: 37-1-131, 37-60-202, MCA; IMP, 37-60-202, MCA; NEW, 1984 MAR p. 815, Eff. 5/18/84; AMD, 1986 MAR p. 946, Eff. 5/30/86; AMD, 1986 MAR p. 1898, Eff. 11/15/86; AMD, 1987 MAR p. 1779, Eff. 10/16/87; AMD, 1990 MAR p. 1772, Eff. 9/14/90; AMD, 1993 MAR p. 2413, Eff. 10/15/93; AMD, 1997 MAR p. 633, Eff. 4/8/97; TRANS, from Commerce, & AMD, 2005 MAR p. 1926, Eff. 10/7/05.)

Rule 24.182.406 reserved

24.182.407 REGULATIONS OF UNIFORM (1) No individual shall, while performing any duty regulated by Title 37, chapter 60, MCA, have or utilize any:

(a) uniform, vehicle or equipment displaying the words, "police", "law enforcement officer", or the equivalent thereof; or

(b) patch, emblem, sign marking, accessory or insignia indicating such uniform, vehicle or equipment is the property of a public law enforcement agency, the state of Montana, or any of its political subdivisions.

(2) A licensee required to wear a uniform while performing any duty regulated by Title 37, chapter 60, MCA, must have the uniform approved by the board.

(a) All uniforms shall, on the outermost garment except for rainwear or foul weather clothing, clearly display:

- (i) the company name;
- (ii) the individual's name; and
- (iii) the occupational category.

(3) Uniformed security guards shall wear a patch on their uniforms as follows:

(a) no less than one inch by three inches in size;

(b) displaying the words "security", "security officer" or "security guard":

- (i) in block letters; and
- (ii) of contrasting colors; and

(c) above the left chest pocket. (History: 37-60-202, MCA; IMP, 37-60-407, MCA; NEW, 1984 MAR p. 589, Eff. 4/13/84; AMD, 1992 MAR p. 1236, Eff. 6/12/92; TRANS, from Commerce, & AMD, 2005 MAR p. 1926, Eff. 10/7/05.)

Rules 24.182.408 through 24.182.412 reserved

24.182.413 RULES FOR BRANCH OFFICE (1) No branch office shall be authorized for any category of licensure other than proprietary security organizations. Any branch office licensed for a proprietary security organization shall have at least one individual who is present during regular business hours, who has established to the board's satisfaction that he or she meets the qualifications necessary of operating the business found at ARM 24.182.503(1). (History: 37-60-202, MCA; IMP, 37-60-302, MCA; NEW, 1984 MAR p. 589, Eff. 4/13/84; AMD, 1997 MAR p. 633, Eff. 4/8/97; TRANS, from Commerce, 2005 MAR p. 1926, Eff. 10/7/05.)

Subchapter 5

Licensure Requirements

24.182.501 REQUIRED INFORMATION FOR APPLICATION

(1) Prior to granting any license, the board shall verify the statements made in applications for licensure as deemed necessary to protect the public health, safety and welfare. The board shall notify local law enforcement pursuant to 37-60-304, MCA.

(2) Each applicant shall provide:

- (a) the applicant's social security number;
- (b) one passport-type photo of the applicant; and
- (c) other pertinent information and documents the board may require to verify application information.

(3) An applicant may be required to pass an exam in each category for which licensure is sought.

(4) Fingerprints required under Title 37, chapter 60, MCA, shall be submitted to the federal bureau of investigation and the Montana department of justice for examination. The

board may issue a temporary practice permit upon receipt of the criminal history report from the Montana department of justice. Final licensure is granted only following receipt and review of the federal bureau of investigation report and any investigations thereof. A fingerprint report is valid for one year from date of receipt of the report from the federal bureau of investigation.

(5) An applicant for private investigator, resident manager or qualifying agent must list the names and telephone numbers of three references not related to the applicant by blood or marriage. Two of the three references must be:

- (a) former employers;
- (b) individuals or firms with which the applicant had a contractual working agreement if self-employed;
- (c) individuals or firms having knowledge of the agreement or working relationship; or
- (d) as determined acceptable by the board.

(6) Upon preliminary approval of an application for contract security companies, proprietary security organizations, electronic security companies, and private investigators, the applicant will have 60 days to provide proof of insurance per ARM 24.182.405 or the application will be closed.

(7) Prior to obtaining licensure as an armed or unarmed private security guard, applicants shall be required to submit proof of the applicant's employment with a licensed contract security company or proprietary security organization.

(8) Contract security companies, proprietary security organizations and electronic security companies shall provide proof of registration with the Montana secretary of state's office and provide the following information:

- (a) for individual ownership, the name of the owner and the owner's address;
- (b) for a partnership, a list of partners and their addresses;
- (c) for a limited liability company, a list of the members and their addresses; or
- (d) for a corporation, a list of principal officers and their addresses. (History: 37-1-131, 37-60-202, MCA; IMP, 37-60-304, MCA; NEW, 1984 MAR p. 589, Eff. 4/13/84; AMD, 1986 MAR p. 946, Eff. 5/30/86; AMD, 1990 MAR p. 1772, Eff. 9/14/90; AMD, 1997 MAR p. 633, Eff. 4/8/97; TRANS, from Commerce, & AMD, 2005 MAR p. 1926, Eff. 10/7/05.)

Rule 24.182.502 reserved

24.182.503 EXPERIENCE REQUIREMENTS (1) Experience requirements for resident managers and/or qualifying agents of contract security companies and proprietary security organizations are as follows:

- (a) two years full-time (35 or more hours per week) experience as:
 - (i) an employee or employer in the field for which licensure is sought;

(ii) a sworn member of any:
(A) federal investigative agency;
(B) military police; or
(C) state, county, or city investigative or law enforcement group or police department; or
(iii) a supervisor or administrator in industrial or governmental security; or
(b) vocational training of at least four, 12-credit semesters in security company operations.
(2) Experience requirements for resident managers and/or qualifying agents of electronic security companies are as follows:
(a) two years full-time (35 or more hours per week) experience as an employer or employee in the field for which licensure is sought.
(3) Experience requirements for private investigators are as follows:
(a) three years full-time experience:
(i) engaged in the private investigative business;
(ii) employed as a private investigator or having held a certificate of authority to conduct a private investigative business; or
(iii) having been an investigator, detective, special agent, or peace officer of a city, county, or state government or of the United States government.
(b) In determining experience qualifications for private investigator licensure, "three years" means an accumulation of 5,400 hours of experience. Self employment must be verified by tax returns.
(4) Proof of education and training must be submitted with the application and may include:
(a) transcripts;
(b) diplomas;
(c) seminar certificates;
(d) course completion certificates; or
(e) other supporting evidence.
(5) Six months of the experience requirement may be met by successful completion and verification of the basic course at the Montana law enforcement academy.
(6) A combination of experience, education and training may be used to meet the experience requirement, but education and training may not exceed 1/2 the experience required.
(7) One and one-half years experience as a licensed insurance investigator may be applied toward the three years of experience required for a private investigator. (History: 37-60-202, MCA; IMP, 37-60-303, MCA; NEW, 1984 MAR p. 589, Eff. 4/13/84; AMD, 1986 MAR p. 946, Eff. 5/30/86; AMD, 1993 MAR p. 2413, Eff. 10/15/93; AMD, 1997 MAR p. 633, Eff. 4/8/97; AMD, 1998 MAR p. 2705, Eff. 10/9/98; TRANS, from Commerce, & AMD, 2005 MAR p. 1926, Eff. 10/7/05.)

24.182.505 WRITTEN EXAMINATION (1) If a written examination is required for licensure, applicants must achieve a minimum score of 70% or more on each part of the exam to pass.

(2) Examination fees are set by and payable directly to the examination administrator or vendor.

(3) The examination may consist of questions on Montana criminal and civil procedures and Montana laws and rules applicable to the area(s) of licensure sought.

(4) Prior to taking the examination, applicants must deposit with the proctor all books, notebooks and other papers. No applicant may remove any papers from the examination room.

(5) Examination applicants must present the notice of examination to be admitted to the examination.

(6) An applicant may retake any failed section of the examination upon payment of another examination fee.

(7) The department shall schedule examinations by appointment.

(8) Waiver of the examination requirement, or any portion thereof, may be granted at the board's discretion, following an applicant's submission of a written request for such waiver. (History: 37-1-131, 37-60-202, MCA; IMP, 37-60-303, MCA; NEW, 1984 MAR p. 589, Eff. 4/13/84; AMD, 1990 MAR p. 1772, Eff. 9/14/90; TRANS, from Commerce, & AMD, 2005 MAR p. 1926, Eff. 10/7/05.)

Rule 24.182.506 reserved

24.182.507 TEMPORARY PERMIT (1) An applicant for any category of licensure, other than private investigator, who has met all requirements for licensure other than passage of the licensing examination, may apply for a temporary practice permit in accordance with 37-1-305, MCA, and subject to the following conditions:

(a) The permit holder may practice only under the direct supervision of an individual licensed:

(i) in good standing;

(ii) without pending or final disciplinary action; and

(iii) in the category for which the applicant seeks licensure.

(b) The supervising licensee is personally responsible for conduct of the temporary permit holder.

(2) Upon meeting the qualifications of this rule, the applicant may be issued a temporary practice permit by the board. For purposes of 37-1-305, MCA, the first license examination for which the applicant is eligible is an examination taken by the applicant no later than 60 days following temporary permit issuance.

(3) In performance of duties, temporary permit holders shall not:

(a) wear, carry, or possess firearms; or

(b) have unsupervised access to valuables. (History: 37-1-131, 37-60-202, MCA; IMP, 37-60-302, 37-60-309, 37-60-

310, 37-60-312, 37-60-407, MCA; NEW, 1984 MAR p. 589, Eff. 4/13/84; AMD, 1986 MAR p. 946, Eff. 5/30/86; AMD, 1987 MAR p. 1779, Eff. 10/16/87; AMD, 1990 MAR p. 1772, Eff. 9/14/90; AMD, 1992 MAR p. 1236, Eff. 6/12/92; AMD, 1997 MAR p. 633, Eff. 4/8/97; TRANS, from Commerce, & AMD, 2005 MAR p. 1926, 10/7/05.)

Rules 24.182.508 through 24.182.510 reserved

24.182.511 PRIVATE INVESTIGATOR TRAINEE (1) Applicants who are at least 18 years of age, but not meeting the experience requirements of a private investigator, may apply for a private investigator trainee license.

(a) The application shall be:

(i) on a board-approved form; and

(ii) include a statement from a licensed private investigator:

(A) that the licensee will employ and provide direct supervision of the trainee; and

(B) setting forth the scope of the trainee's duties and training.

(2) A trainee may not conduct an independent business or act as an independent contractor.

(3) Employment and training of the trainee may not begin until:

(a) the board has approved the application; and

(b) the applicant has received the trainee license and identification card.

(4) Trainee licenses expire annually as set forth in ARM 8.2.208.

(5) Private investigators shall submit quarterly reports, on a board-approved form, regarding each private investigator trainee they supervise. (History: 37-60-202, MCA; IMP, 37-60-202, MCA; NEW, 1986 MAR p. 46, Eff. 5/30/86; AMD, 1990 MAR p. 1772, Eff. 9/14/90; AMD, 1997 MAR p. 633, Eff. 4/8/97; AMD, 1998 MAR p. 2705, Eff. 10/9/98; TRANS, from Commerce, & AMD, 2005 MAR p. 1926, Eff. 10/7/05.)

Rule 24.182.512 reserved

24.182.513 LICENSE RENEWAL (1) The board shall send each licensee, by mail to the licensee's last known address, an application for renewal, indicating the renewal fee, prior to expiration of license.

(2) At renewal, the board may require applicants to submit one recent photograph showing full face, head and shoulders of the applicant, with the application for renewal to be used for the current identification card.

(3) Expired licenses may be renewed within 90 days of the renewal date, as shown in ARM 8.2.208, upon payment of the renewal fee and late fee. If more than 90 days have passed since expiration, to obtain a new license the applicant must:

(a) submit a new application;

(b) take and pass the appropriate examination; and

(c) pay the required fees. (History: 37-60-202, MCA; IMP, 37-60-312, MCA; NEW, 1984 MAR p. 589, Eff. 4/13/84; AMD, 1997 MAR p. 633, Eff. 4/8/97; TRANS, from Commerce, & AMD, 2005 MAR p. 1926, Eff. 10/7/05.)

Subchapters 6 and 7 reserved

Subchapter 8

Firearms Training Courses Standards
And Curriculum

24.182.801 CURRICULUM AND STANDARDS FOR FIREARMS TRAINING COURSES (1) Certified firearms instructors shall submit course outlines for board approval. Firearms training courses must meet the objectives of firearm safety and shooting proficiency, with emphasis on shooting distances of less than 15 yards.

(2) Firearms training courses must address the following issues:

- (a) firearm familiarization, including:
 - (i) safety levers;
 - (ii) decocking levers;
 - (iii) magazine release;
 - (iv) slide-lock release; and
 - (v) reloading;
- (b) safe handling of the firearm, emphasizing:
 - (i) negligent discharge;
 - (ii) muzzle direction;
 - (iii) dropping a firearm;
 - (iv) finger on trigger;
 - (v) proper grip;
- (vi) sight picture;
- (vii) proper holstering;
- (viii) firearm retention;
- (ix) management of malfunctions; and
- (x) firearms in the home;
- (c) use of deadly force;
- (d) shooting judgment; and
- (e) civil and criminal liability.

(3) Demonstrated competency for both the proficiency test and the written test shall be determined by the certified firearms instructor. (History: 37-60-202, MCA; IMP, 37-60-202, 37-60-303, MCA; NEW, 2005 MAR p. 1926, Eff. 10/7/05.)

Subchapters 9 through 22 reserved

Subchapter 23

Unprofessional Conduct

24.182.2301 UNPROFESSIONAL CONDUCT The term "unprofessional conduct" as used in 37-1-316 and 37-1-319, MCA, is defined to include the following:

(1) Becoming involved in investigations on behalf of a client with intent to break the law or to use the information unlawfully;

(2) Performing services outside of the licensee's area of training, expertise, competence or scope of practice or licensure;

(3) Using the professional position of trust for illegal gains;

(4) Accepting investigations which conflict with previous or current investigations;

(5) Failing to provide a client with an accurate and factual report within a time frame specified by mutual agreement;

(6) Expressly or impliedly representing oneself as a member of law enforcement by conduct, dress, advertisement or other representation;

(7) Filing a complaint with, or providing information to the board, which the licensee knows or ought to know is false or misleading. This provision does not apply to any filing of complaint or providing information to the board when done in good faith;

(8) Violating, or attempting to violate, directly or indirectly, or assisting or abetting the violation of, or conspiring to violate any provision of Title 37, chapter 60, MCA, or rule promulgated thereunder, or any order of the board;

(9) Violating any state, federal, provincial or tribal statute or administrative rule governing or affecting the professional conduct of any licensee;

(10) Acting in such a manner as to present a danger to public health or safety, or to any client including, but not limited to, incompetence, negligence or malpractice;

(11) Accepting an assignment adverse in any way to a present client or former client if the assignment is substantially related to the prior professional relationship with the former client;

(12) Failing to render adequate supervision, management, training or control of auxiliary staff or other persons, including licensees, practicing under the licensee's supervision or control;

(13) Discontinuing professional services unless:

(a) services have been completed,

(b) the client requests the discontinuation,

(c) alternative or replacement services are arranged, or

(d) the client is given reasonable opportunity to arrange alternative or replacement services;

(14) Delegating a professional responsibility to a person when the licensee knows or has reason to know that the person is not qualified by training, experience, license or certification to perform the delegated task;

(15) Failing to report an incident of unsafe practice or unethical conduct of another licensee to the licensing authority;

(16) Failing to account for funds received in connection with any services rendered or to be rendered; and

(17) Failing to put in trust or otherwise properly segregate funds in connection with a specific project for a specific purpose. (History: 37-60-202, MCA; IMP, 37-60-202, 37-60-401, MCA; NEW, 1984 MAR p. 589, Eff. 4/13/84; AMD, 1990 MAR p. 1772, Eff. 9/14/90; AMD, 1997 MAR p. 633, Eff. 4/8/97; TRANS, from Commerce, 2005 MAR p. 1926, Eff. 10/7/05.)